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SUBJECT: UN PLANS FOR LEBANON TRIBUNAL CRYSTALLIZE

Classified By: Ambassador Wolff for Reasons 1.4b and 1.4d

11. (U) Summary. In a June 22 discussion, UN Legal Counsel Nicolas Michel described progress on implementing UN Security Council resolution 1757, which brought the provisions of the Tribunal Agreement between the UN and Lebanon into force on June 10. Michel and his task force have focused on the Tribunal seat, funding, and selection of judges. He also shared views on timing and the selection of a Prosecutor. End Summary.

12. (C) Ambassador Wolff met with Nicolas Michel to receive an update on the Lebanon Tribunal. Michel said that he has set up a task force within his office and they are actively making preparations for the Tribunal. The location remains a key element. Cyprus is not a workable option because of security concerns. Michel reported that he met with the Permanent Representative of the Netherlands and asked that The Hague consider hosting the Tribunal. Michel said that his main message was, "If your response is negative, don't go public with it". The Dutch PR agreed. Michel also said that he thought that within the Dutch government there are different views and there is not yet a unified internal position. He said that he plans to speak with the Austrian and German Permanent Representatives and will remain in contact with us about the need for future concerted action on the seat issue.

13. (U) Budget. Michel said that the location of the seat will have an impact on budget and in discussions with the UN budget officers they have determined to proceed with funding for two phases. The initial start up costs would be drawn from internal existing cash which could be applied immediately for that purpose. The terms of reference for the Tribunal's Trust Fund have also been drawn up. (UN Budget Controller's Office told USUN that the fund should be operational within a few days and that in the interim, designated deposits may be made into the UN general trust fund.)

14. (C) Judges. Michel reported on recent conversations with Lebanese government officials including Ambassador Mohamed Chattah of the Prime Minister's office. Chattah informed Michel that contrary to Press reports, the Supreme Council of the Magistracy has not sent a list of nominees to the Government. Instead they are consulting first with potential nominees and will submit the list in a sealed envelope to the GOL for forwarding to the Secretary General. Michel said that while the appropriate timing for appointment of the judges would be in February or March of 2008, political factors required we act sooner. Accordingly, the UN will move the process forward and appoint the judges even before there are indictments. Judges could devote themselves to developing court rules which will be required to conduct trials.

15. (U) Selection Process. Pressing ahead with the selection

of the Lebanese judges will also accelerate the schedule for selection of international judges. OLA has prepared a draft letter to UN Missions inviting them to submit applications for judges by the end of July. The selection will be made by a panel of two international judges and a representative of the Secretary General. Prior to consideration by the panel all applications received will be assessed and a short list will be prepared. Candidates on the short list will be interviewed, probably in mid to late October.

¶16. (C) Security. The most challenging aspect of the process will be maintaining secrecy and the security of the 12 Lebanese candidates. The GOL has indicated it expects the UN to provide security for Lebanese nominees as soon as the list is transmitted. Michel noted that the UN is being pushed into the forefront but he sees the GOL as a partner which must take joint responsibility.

¶17. (C) Ambassador Wolff assured Michel of the full support of the United States. Wolff said he understood the motivation of the GOL to have the Tribunal up and running before it could be unraveled due to internal Lebanese politics. He noted that the United Nations International Independent Investigation Commission (UNIIIC) investigation was due to conclude in seven months and there should be no interval between Chief Investigator Brammertz presenting his conclusions and action by the Tribunal. On the difficult issue of security for the judges, Wolff suggested that a way be found to mitigate both the security vulnerability of identifying and the burden of providing security for the twelve Lebanese nominees. He noted that the politics of Lebanon may compel faster action than the UN would prefer but there is a need to create a sense of inevitability of prosecution and setting up the structure now serves that purpose.

¶18. (U) Prosecutor. Michel said the UN hopes to have a decision on a Prosecutor early and that that individual could begin working with Brammertz as soon as November. He said they have not yet identified candidates but the person selected should speak the languages of the Tribunal (Arabic, English, French) and have good diplomatic and managerial skills. Wolff agreed that getting the Prosecutor on board by November would be a good move and promised to provide any suggestions the U.S. might have on possible candidates.

KHALILZAD